

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ERIC SMITH,

Plaintiff,

v.

OFFICER HEWITT, et al.,

Defendants.

Civil Action No. 07-35 Erie

MEMORANDUM ORDER

This civil rights action was received by the Clerk of Court on March 6, 2007, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 32], filed on February 21, 2008, recommended that Defendants' partial motion for judgment on the pleadings [Doc. No. 15] be granted. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendants. No objections were filed. After de novo review of the motion and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 10th day of March, 2008;

IT IS HEREBY ORDERED that the Defendants' partial motion for judgment on the pleadings [Doc. No. 15] is GRANTED.

The Report and Recommendation [Doc. No. 32] of Magistrate Judge Baxter, filed on February 21, 2008, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge